

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Bank of America, N.A. Successor
By Merger to LaSalle,

Plaintiff(s),

vs.

Demetrious Smith, et al.,

Defendant(s).

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Case Number: 1:16cv1156

Judge Susan J. Dlott

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Stephanie K. Bowman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on December 22, 2016 a Report and Recommendation (Doc. 9). On January 4, 2017, the Magistrate Judge filed a supplemental Report and Recommendation (Doc. 11). Subsequently, the plaintiff filed objections to such Report and Recommendation (Docs. 12 and 13).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendation should be adopted.

Accordingly, it is ORDERED that the Report and Recommendation filed on December 22, 2016 (Doc. 9) shall stand with the exception that the motion to remand by Bank of America is GRANTED as an alternative basis for remand.

The defendants' removal petition is DENIED for lack of subject matter jurisdiction and

this case is REMANDED to the Hamilton County Court of Common Pleas. *See* 28 U.S.C. §1447(c).

The Court requires defendants to pay the amount of \$400.00 to the Clerk of Court as a sanction for filing a wholly frivolous petition for removal of this case.

The Court certifies pursuant to 28 U.S.C. §1915(a) that for the foregoing reasons an appeal of this Order would not be taken in good faith, therefore, DENYING defendants leave to appeal *in forma pauperis*. Defendants remain free to apply to proceed *in forma pauperis* in the Court of Appeals.

The motion for waiver of pacer fees by defendants (Doc. 16) is hereby DENIED as moot.

IT IS SO ORDERED.

____s/Susan J. Dlott_____
Judge Susan J. Dlott
United States District Court